

REMARKS

In the Office Action dated February 18, 2004, claim 42 was rejected under 35 U.S.C. § 102 over U.S. Patent No. 6,513,015 (Ogasawara); claims 3-11, 14, 15, 18-23, 25, 27-30, 32-37, and 43-47 were rejected under § 103 over U.S. Patent No. 5,572,653 (DeTemple) in view of U.S. Patent Publication No. 2002/0077130 (Owensby); claims 13 and 26 were rejected under § 103 over DeTemple and Owensby in view of U.S. Patent No. 5,086,394 (Shapira); claim 16 was rejected under § 103 over DeTemple and Owensby in view of Ogasawara; claim 17 was rejected under § 103 over DeTemple, Owensby, and Ogasawara in view of U.S. Patent No. 6,237,145 (Narasimhan); claim 39 was rejected under § 103 over DeTemple in view of Ogasawara; and claims 48 and 49 were rejected under § 103 over DeTemple and Ogasawara in view of U.S. Patent No. 5,526,133 (Paff).

Applicant thanks the Examiner for conducting a telephonic interview between the undersigned and the Examiner on April 29, 2004. During the telephonic interview, claims 3, 6, and 39, were discussed in view of applied references DeTemple, Owensby, and Ogasawara. The undersigned argued that there is no motivation or suggestion to combine DeTemple and Owensby, citing specifically to ¶ [0008] of Owensby as objective proof that persons of ordinary skill in the art would have been led away from the present invention by Owensby. Also, with respect to claim 39, the undersigned argued that Ogasawara does not teach or suggest receiving video data collected from plural cameras in the proximity of the user based on tracking the location of the user, and storing the video data in a video album. With respect to dependent claim 6, the undersigned argued that neither DeTemple nor Owensby teaches or suggests updating a user profile based on retail purchasing actions of a user. The Examiner disagreed with the arguments presented by the undersigned. Therefore, no agreement was reached with respect to claims 3, 6, and 39.

However, the Examiner did propose the addition of subject matter to the claims that would overcome the present references. In view of the proposal of the Examiner, Applicant has added dependent claims 50-52, which recite subject matter based on the

Examiner's proposals. It is best believed that such dependent claims are allowable over the references of record.

REJECTION OF CLAIM 42 UNDER 35 U.S.C. § 102 OVER OGASAWARA

As amended, claim 42 is clearly allowable over Ogasawara. Ogasawara does not disclose a controller to receive an indication that a user has registered to have a video album created, and the controller to create the video album containing the received video images (from different ones of a plurality of video cameras based on tracking a person) in response to the indication that the user has registered to have the video album created.

In view of the foregoing, allowance of claim 42 is respectfully requested.

§ 103 REJECTIONS

Independent claim 3 was rejected over the asserted combination of DeTemple and Owensby. To render a claim obvious, there must be some motivation or suggestion to combine reference teachings, in this case DeTemple and Owensby. Applicant respectfully submits that there is no motivation or suggestion to combine the teachings of DeTemple and Owensby. DeTemple teaches display tags 16 and displays 28 and 30 that present information without any regard for the location of a user. On the other hand, Owensby teaches sending targeted messages to mobile terminals of subscribers of a wireless mobile communications service. Owensby, ¶ [0010]. Without the benefit of the disclosure of the present invention, a person of ordinary skill in the art would not have been motivated to combine the teachings of DeTemple and Owensby.

In fact, Owensby recognizes as a limitation that "messages cannot be targeted to the subscriber of a landline communications service on the basis of the physical location of the subscriber when the call is initiated from or received at a location other than the fixed location of the terminal." Owensby, ¶ [0008]. Owensby further states that "[w]hile it is known for operators to provide messages that are targeted to the subscribers of conventional landline communications services, the known systems and methods have inherent limitations." *Id.* One of the most important limitations is that landline communication is initiated or received from a fixed location. *Id.* Consequently, Owensby teaches that messages cannot be targeted to the subscriber on the basis of the physical location of the subscriber. *Id.* Such a teaching in Owensby would have led a

person of ordinary skill in the art away from the claimed invention (sending information to present to the user on one of the fixed presentation devices in the proximity of the user based on a determined location of the user), which is a strong indication that a person of ordinary skill in the art would not have been motivated to combine the teachings of DeTemple and Owensby.

A prior art reference must be considered in its entirety, including portions of the reference that would lead a person of ordinary skill in the art away from the invention. *See MPEP § 2141.03 (8<sup>th</sup> ed., Rev. 1) at 2100-122.* The Office Action focused only on the portions of Owensby relating to mobile devices, ignoring the teachings of Owensby regarding targeted messaging relating to devices at fixed locations. Effectively, what Owensby teaches to a person of ordinary skill in the art is that targeted messaging can be accomplished in a wireless mobile communications system because a mobile terminal is carried by a user and can be tracked by the mobile communications network. However, Owensby teaches that when it comes to landline devices at fixed locations, messages "cannot be targeted to the subscriber of a landline communications service on the basis of the physical location of the subscriber." Owensby, ¶ [0008]. When the teachings of DeTemple and Owensby are properly construed in light of the proper context of the references, it is clear that there is no motivation or suggestion to combine DeTemple and Owensby in the manner proposed by the Office Action.

A further indication that there is no motivation or suggestion to combine the teachings of DeTemple and Owensby is the fact that there is absolutely no need for sending targeted messages to terminals based on a determined location of the user in DeTemple system. DeTemple talks about electronic display tags 16 to convey pricing and other information about a particular item of merchandise, and an advertising mechanism that includes display screens 28 and 30. However, there is absolutely no suggestion in DeTemple or Owensby of the desirability to present information on fixed presentation devices based on a determined location of a user. *See MPEP § 2143.01 ("The prior art must suggest the desirability of the claimed invention.")* The attempt in the Office Action at modifying the teachings of DeTemple to incorporate the teachings of Owensby is based entirely on impermissible hindsight, as a person of ordinary skill in the

art reviewing the teachings of DeTemple and Owensby would not have been motivated to combine such reference teachings.

Because there is no motivation or suggestion to combine DeTemple and Owensby, it is respectfully submitted that claim 3 is not obvious over DeTemple and Owensby.

A further requirement of an obviousness case is that references when combined must teach *all* elements of a claim. DeTemple fails to disclose or suggest sending advertising information to present to a user on one of a plurality of fixed presentation devices in the proximity of the user based on a determined location of the user. Owensby also fails to teach or suggest the recited features. Owensby is directed at presenting information on a *mobile* device that a subscriber is carrying (*not a fixed device*). *See* Owensby ¶¶ [0010], [0011]. In other words, neither DeTemple nor Owensby teaches or suggests sending advertising information to present to the user on one of a plurality of fixed presentation devices in the proximity of the user based on a determined location of the user. The obviousness rejection is defective on this further ground.

With respect to independent claims 18 and 29, the arguments presented above with respect to no motivation or suggestion to combine DeTemple and Owensby apply equally. Thus, the obviousness rejection of claims 18 and 29 are defective for at least the reason that there is no motivation or suggestion to combine DeTemple and Owensby. Furthermore, with respect to claim 18, the hypothetical combination of DeTemple and Owensby fails to teach or suggest "a controller adapted to retrieve information relating to a location of a user and to communicate information to present on one of the fixed presentation devices in the proximity of the user as determined by the location information." With respect to independent claim 29, the hypothetical combination of DeTemple and Owensby fails to disclose or suggest "send[ing] information to one of plural fixed presentation devices located at respective fixed locations in the geographic region, the one fixed presentation device selected based on the location of the user."

Claims dependent from each of independent claims 3, 18, and 29 are allowable for at least the same reasons as corresponding independent claims. Moreover, with respect to claim 6 (which depends from claim 3), neither DeTemple nor Owensby teaches or suggests updating a user profile based on *retail purchasing* actions of the user, and

determining advertising information of interest to a user based on the user profile updated based on retail purchasing actions of the user. Although DeTemple talks about collecting information based on products purchased by a customer, DeTemple makes no reference to determining the advertising information of interest to a user based on a user profile updated based on retail purchasing actions of the user. Owensby is completely silent on determining advertising information of interest to a user based on a user profile updated based on *retail purchasing actions of the user*. Therefore, the hypothetical combination of DeTemple and Owensby also fails to disclose the subject matter of dependent claim 6.

Dependent claim 43, which depends from claim 6, further recites updating a user profile based on retail purchasing actions of the user in a *facility*, and sending the advertising information to represent to the user on one of the fixed presentation devices *in the facility*. Claim 43 thus recites updating a user profile based on retail purchasing actions of the user in a facility, and then sending advertising information to present the user on one of fixed presentation devices *in the same facility*. There is nothing in either DeTemple or Owensby to even remotely suggest such a feature. Owensby relates to presenting information on mobile devices; thus the concept of presenting targeted advertising information based on user profile updated due to retail purchasing actions of a user in a facility onto fixed presentation devices in the same facility is completely lacking in Owensby. DeTemple also fails to disclose or suggest such a feature. Therefore, the hypothetical combination of DeTemple and Owensby does not disclose or suggest all elements of claim 43.

Claim 45, which depends from claim 20, is similarly allowable over DeTemple and Owensby.

Dependent claim 44, which depends from claim 20, is also not taught or suggested by DeTemple and Owensby. Claim 44 recites updating a user profile based on activities of the user in a *facility*, and presenting the advertising information on one of the fixed presentation devices *in the facility* based on the updated user profile.

Independent claim 39 was rejected over Owensby and Ogasawara. Claim 39 has been amended to now recite receiving video data collected from plural cameras in the proximity of the user based on tracking the location of the user, the received video data including video images of the user as the user *roams about locations in a facility*,

*including locations away from an entrance and exit of the facility.* Claim 39 also recites storing the video images of the user roaming about locations in the facility, including locations away from the entrance and exit of the facility, in a video album. Ogasawara, although teaching the receiving of video data collected from cameras as a user enters an establishment, does not teach or suggest receiving video data including video images of the user as the user roams about locations in a facility, including locations away from an entrance and exit of the facility. Therefore, Owensby and Ogasawara fail to teach or suggest the subject matter of claim 39.

Claims 13 and 26, which depend from claims 3 and 18, respectively, were rejected over the asserted combination of DeTemple, Owensby, and Shapira. Because the obviousness rejection over DeTemple and Owensby of base claims 3 and 18 is defective, it is respectfully submitted that the rejection of claims 13 and 26 over DeTemple, Owensby, and Shapira is also defective. Withdrawal of the rejection is respectfully requested.

Dependent claim 16 was rejected over the asserted combination of DeTemple, Owensby, and Ogasawara, and dependent claim 17 was rejected over the combination of DeTemple, Owensby, Ogasawara, and Narasimhan. Because the rejection of base claim 3 over DeTemple and Owensby is defective, the rejections of claims 16 and 17 over DeTemple, Owensby, and other references are also defective. Withdrawal of the rejections is respectfully requested.

Dependent claims 48 and 49 were rejected over the asserted combination of DeTemple, Ogasawara, and Paff. Because the rejection of base claim 39 over DeTemple and Ogasawara is defective, the rejection of claims 48 and 49 over DeTemple, Ogasawara, and Paff is also defective and should be withdrawn.

In view of the foregoing, all claims are in condition for allowance, which action is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 20-1504 (NRR.0009US).

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Respectfully submitted,



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